

IN THE MATTER OF
STRAWBRIDGE & CLOTHIER, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE
TEXTILE FIBER PRODUCTS IDENTIFICATION ACT AND
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

Docket C-3332. Complaint, June 13, 1991—Decision, June 13, 1991

This consent order requires, among other things, a Pennsylvania company to provide appropriate origin and textile fiber product disclosures, under the Textile Fiber Products Identification Act, in textile mail order promotional materials and catalogs.

Appearances

For the Commission: *Robert E. Easton.*

For the respondent: *Stephen Paul Mahinka, Morgan, Lewis & Bockius, Washington, D.C.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Strawbridge & Clothier, Inc., a corporation, hereinafter referred to as respondent, has violated the provisions of the Federal Trade Commission Act and of the Textile Fiber Products Identification Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby alleges:

PARAGRAPH 1. Respondent Strawbridge & Clothier, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania with its office and principal place of business located at 801 Market Street, Philadelphia, Pennsylvania.

PAR. 2. Respondent is now, and for some time past has been, engaged, by means of mail order catalogs, in the advertising, offering for sale, sale and distribution of a variety of products in or affecting commerce, including textile wearing apparel and other textile fiber products.

PAR. 3. In September 1984 Congress amended the Textile Fiber Products Identification Act (15 U.S.C. 70) (hereafter referred to as

the Textile Act) to require that catalogs and other mail order promotional material disclose whether textile fiber products offered for sale are imported or domestically produced or both. The amendment states:

Misbranding and False Advertising of Textile Fiber Products

(i) For the purposes of this Act, a textile fiber product shall be considered to be falsely or deceptively advertised in any mail order catalog or mail order promotional material which is used in the direct sale or direct offering for sale of such textile fiber product, unless such textile fiber product description states in a clear and conspicuous manner that such textile fiber product is processed or manufactured in the United States of America, or imported, or both. (15 U.S.C. 70b(i))

PAR. 4. The Commission, pursuant to authority under the Textile Act to make such rules and regulations as may be necessary and proper for the enforcement of the Textile Act (15 U.S.C. 70e), promulgated a rule effective April 17, 1985, relating to country of origin in mail order advertising. Rule 34 states:

When a textile fiber product is advertised in any mail order catalog or mail order promotional material, the description of such product shall contain a clear and conspicuous statement that the product was either made in U.S.A., imported, or both. Other words or phrases with the same meaning may be used. The statement of origin required by this section shall not be inconsistent with the origin labeling of the product being advertised. (16 CFR 303.34, as amended)

PAR. 5. Section 4(b) of the Textile Act requires that a label attached to an imported or domestic textile product contains disclosure of the constituent fibers by their generic names. Section 4(c) of the Textile Act states that if fiber content is mentioned or implied in a written advertisement, then the proper generic names as required under Section 4(b) of the Textile Act must be disclosed. Section 4(b) of the Textile Act reads, in part, as follows:

... a textile fiber product shall be misbranded if a stamp, tag, label, or other means of identification, or substitute therefore authorized by Section 5, is not on or affixed to the product showing in words and figures plainly legible, the following:

(1) The constituent fiber or combination of fibers in the textile fiber product, designating with equal prominence each natural or manufactured fiber in the textile fiber product by its generic names . . .

Section 4(c) of the Textile Act reads:

(c) For the purpose of this Act, a textile fiber product shall be considered to be

falsely or deceptively advertised if any disclosure or implication of fiber content is made in any written advertisement which is used to aid, promote, or assist directly or indirectly in the sale or offering for sale of such textile fiber product, unless the same information as that required to be shown on the stamp, tag, label, or other identification under Section 4(b) (1) and (2) is contained in the heading, body, or other part of such written advertisement, except that the percentages of the fiber present in the textile fiber product need not be stated. (15 U.S.C. 70b(c)).

PAR. 6. The Commission, pursuant to authority under the Textile Act to make such rules and regulations as may be necessary and proper for the enforcement of the Textile Act (15 U.S.C. 70e), promulgated Rules 41 and 42 relating to fiber content disclosures in advertising. Rules 41 and 42 read:

Rule 41—Use of Fiber Trademarks and Generic Names in Advertising.

(a) In advertising textile fiber products, the use of a fiber trademark shall require a full disclosure of the fiber content information required by the Act and Regulations in at least one instance in the advertisement.

(b) Where a fiber trademark is used in advertising textile fiber products containing more than one fiber, other than permissible ornamentation, such fiber trademark and the generic name of the fiber must appear in the required fiber content information in immediate proximity and conjunction with each other in plainly legible type or lettering of equal size and conspicuousness.

(c) Where a fiber trademark is used in advertising textile fiber products containing only one fiber, other than permissive ornamentation, such fiber trademark and the generic name of the fiber must appear in immediate proximity and conjunction with each other in plainly legible and conspicuous type or letter at least once in the advertisement.

Rule 42 - Arrangement of Information in Advertising Textile Fiber Products.

(a) Where a textile fiber product is advertised in such manner as to require disclosure of the information required by the Act and Regulations, all parts of the required information shall be stated in immediate conjunction with each other in legible and conspicuous type or lettering of equal size and prominence. In making the required disclosure of the fiber content of the product, the generic names of fibers present in an amount five percentum or more of the total fiber weight of the product together with any fibers disclosed in accordance with Rule 3(b) shall appear in order of predominance by weight, to be followed by the designation other fiber or other fibers if a fiber or fibers required to be so designated be present. [16 CFR 303.42, as amended, effective December 13, 1965.]

PAR. 7. Pursuant to Section 3(f) of the Textile Act, 15 U.S.C. 70(a), violation of that Act and the Federal Trade Commission rules issued thereunder is an unfair method of competition and an unfair and deceptive act or practice under the Federal Trade Commission Act.

PAR. 8. Respondent's aforesaid textile fiber products have been

advertised or offered for sale in mail order catalogs or mail order promotional material without a clear and conspicuous statement that the products are processed or manufactured in the United States of America, or imported, or both.

PAR. 9. Respondent's aforesaid textile fiber products have been advertised or offered for sale in mail order catalogs or mail order promotional materials in which fiber content is mentioned or implied in a written advertisements, but the proper generic names were not disclosed.

PAR. 10. Respondent's sale, offering for sale and advertising of textile fiber products in or affecting commerce were, and are, in violation of the Textile Act and the Federal Trade Commission rules and regulations promulgated thereunder, and constituted, and now constitute, unfair methods of competition and unfair and deceptive acts and practices in commerce, in violation of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act and the Textile Fiber Products Identification Act; and

The respondent, its attorneys, and counsel for the Commission having thereafter executed an agreement containing: a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record

for a period of sixty (60) days, and having duly considered the comment filed thereafter by an interested person pursuant to Section 2.34 of its Rules, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Strawbridge & Clothier, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania with its office and principal place of business presently located at 801 Market Street, Philadelphia, Pennsylvania.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

It is ordered, That respondent Strawbridge & Clothier, Inc., a corporation, its successors and assigns, trading under its own name or as Strawbridge & Clothier or under any other name or names, and its officers, and respondent's agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale or sale by mail order catalog or mail order promotional material of any textile fiber product as that term is defined in the Textile Fiber Products Identification Act (15 U.S.C. 70) do forthwith cease and desist from:

1. Offering for sale, selling or advertising any such textile fiber product in any mail order catalog or mail order promotional material which is used in the direct sale or direct offering for sale of any such textile fiber product, without stating in the description of such textile fiber product in a clear and conspicuous manner that such textile fiber product is processed or manufactured in the United States of America, or imported, or both; and

2. Offering for sale, selling or advertising any such textile fiber product in any mail order catalog or mail order promotional material which is used in the direct sale or direct offering for sale of any such textile fiber product, and which contains any written advertisement that mentions or implies fiber content but fails to use the proper generic fiber names in a manner consistent with the Textile Act and the rules and regulations thereunder.

It is further ordered, That respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That respondent shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That respondent shall within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

IN THE MATTER OF

BOISE CASCADE CORPORATION

MODIFIED FINAL ORDER, ETC., IN REGARD TO ALLEGED
VIOLATION OF SEC. 2 OF THE CLAYTON ACT AND
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

Docket 9133. Final Order, Feb. 11, 1986—Modified Final Order, June 20, 1991*

This modified final order prohibits the Idaho-based distributor of office products from knowingly inducing, receiving, or accepting wholesale discounts on such products that Boise resells to end-users in the future. The Commission's original order prohibited the respondent from knowingly receiving prices discriminatorily lower than those available to its competitors in the sale of office products to end-users.

Appearances

For the Commission: *Chris M. Couillou.*

For the respondent: *Victor E. Grimm, Bell, Boyd & Lloyd,*
Chicago, IL.

MODIFIED FINAL ORDER

Boise Cascade Corporation having filed in the United States Court of Appeals for the District of Columbia Circuit a petition for review of the order to cease and desist issued herein on February 11, 1986, 107 FTC 76, 224, and reissued on November 1, 1990, and the Commission having before it a proposal of Boise Cascade to terminate the proceeding for judicial review upon the Commission's entry of the following modified order, and the Commission having determined to accept the proposal, and having the authority to modify its order by virtue of the fact that the record in the proceeding has not been filed with the Court of Appeals (*see* 15 U.S.C. 21(b) and Commission Rule 3.72(a)); accordingly,

It is ordered, That the cease and desist order entered in this matter be modified to read as follows:

I.

The following definitions shall apply in this order:

*Complaint, Final Order, etc. previously published at 107 FTC 76 (1986).